

1 IN THE COUNTY OF WASHINGTON

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3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

4 VIRGINIA GAS AND OIL BOARD

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8 JULY 20, 2004

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11 APPEARANCES:

12 MASON BRENT - OIL & GAS REPRESENTATIVE

13 DONALD RATLIFF - COAL REPRESENTATIVE

14 BENNY WAMPLER - DEPUTY DIRECTOR OF THE DMME AND CHAIRMAN

JIM MCINTRYE - PUBLIC MEMBER

15  
16 BOB WILSON - DIRECTOR OF THE DIVISION OF GAS & OIL AND  
PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD

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1           BENNY WAMPLER: Good morning. My name is Benny  
2 Wampler. I'm Deputy Director for the Virginia Department of  
3 Mines, Minerals and Energy, and Chairman of the Gas and Oil  
4 Board. I'll ask the members to introduce themselves,  
5 starting with Mr. Brent.

6           MASON BRENT: My name is Mason Brent. I represent  
7 the Gas and Oil Industry and I'm from Richmond.

8           DONALD RATLIFF: I'm Donald Ratliff, representing  
9 the coal industry from Wise County.

10          JIM MCINTRYE: Jim McIntrye from Wise, Virginia.  
11 I'm a citizen appointee.

12          BOB WILSON: My name is Bob Wilson. I'm the  
13 Director of the Division of Gas and Oil, and Principal  
14 Executive to the staff of the Board.

15          BENNY WAMPLER: Thank you. The first item on the  
16 agenda today is the Board will receive a quarterly report on  
17 the Board's escrow account that's administered by Wachovia  
18 Bank Escrow Agent for the Board. Bob.

19          BOB WILSON: Thank you. I've given each of you a  
20 copy of the quarterly summary that we received from Wachovia  
21 National Bank. We started off the quarter with a balance of  
22 \$8,577,070.94. During the quarter we received deposits of  
23 \$573,220.02, earned interest of \$18,574.81. There were no  
24

1 disbursements during the last quarter. That left us with a  
2 closing balance for the quarter as of June the 30th of  
3 \$9,168,865.77, which represents an increase over the quarter  
4 of \$591,794.83. Again, we'd remind you that the fees are  
5 deducted on a semi-annual basis. There were no fees deducted  
6 out of this quarter's report either.

7           Attached to the report is the disbursement report,  
8 which we only get twice a year. So, this represents the  
9 first two quarters of the year. You can see that during that  
10 period of time, we disbursed \$17,926.84. That was under one  
11 disbursement proceeding for those folks that you see listed  
12 there.

13           Interest rate, at this particular time at least, is  
14 headed in the right direction. We're getting 1.03% now.  
15 That's up from .94% that we've been getting. So, every  
16 little bit helps there.

17           We have no particular issues other than that.  
18 That's essentially all the report that I have.

19           BENNY WAMPLER: Questions from members of the  
20 Board?

21           MASON BRENT: I'm...if I may, Mr. Chairman, just  
22 ask one question.

23           BENNY WAMPLER: Mr. Brent.

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1           MASON BRENT: As I recall, there have been a few  
2 disbursement orders that we've approved this year. I'm a  
3 little surprised just to see that there's only been these in  
4 March.

5           BOB WILSON: Yes. The bulk of the orders that we  
6 approved recently are still being held, of course, because of  
7 some title questions and that sort of thing. These...other  
8 than that, the only ones we've approved this year, I believe,  
9 are, or was, that Cabot disbursement---.

10          MASON BRENT: Okay.

11          BOB WILSON: ---that was represented by these folks  
12 right here.

13          MASON BRENT: That's my bad recollection then. I'm  
14 aware of the ones that are being held up. But I thought  
15 there were more than just this. I guess not.

16          BOB WILSON: I hope not. I don't think so.

17          BENNY WAMPLER: I think...I think that may have  
18 been the latter part of last year.

19          MASON BRENT: Yeah.

20          BENNY WAMPLER: The last quarter. Any other  
21 questions?

22                 (No audible response.)

23          BENNY WAMPLER: The next item on the agenda is a  
24

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1 petition from CNX Gas Company, LLC for pooling of coalbed  
2 methane unit I-39 in the Garden District of Buchanan County,  
3 docket number VGOB-04-0615-1294. We'd ask the parties that  
4 wish to address the Board in this matter to come forward at  
5 this time.

6 MARK SWARTZ: Mark Swartz and Les Arrington. Mr.  
7 Chairman, while Les is passing this stuff out, there...  
8 actually this is an Oakwood unit and there's another Oakwood  
9 unit A-23, which is item number, I think, three on your  
10 docket today.

11 BENNY WAMPLER: Okay.

12 MARK SWARTZ: It might make sense to combine the  
13 two Oakwood units for hearing.

14 BENNY WAMPLER: The 1305?

15 MARK SWARTZ: Correct.

16 BENNY WAMPLER: We'll go ahead and call a petition  
17 from CNX Gas Company, LLC for pooling of coalbed methane unit  
18 A-23, docket number VGOB-04-0720-1305. We'd ask the parties  
19 that wish to address the Board in this matter to come  
20 forward, also.

21 MARK SWARTZ: Mark Swartz and Les Arrington on that  
22 one as well.

23 BOB WILSON: Mr. Chairman.

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1           BENNY WAMPLER: Mr. Wilson.

2           BOB WILSON: For the record, the staff received a  
3 letter regarding pooling unit I-39, which is docket number  
4 04-0615-1294, from Ducinia L. Stacy stating her objections to  
5 the pooling. A copy of that letter will be in our file and  
6 has been distributed to each Board member.

7           BENNY WAMPLER: Thank you, Mr. Wilson. Do you have  
8 a copy of that?

9           LESLIE K. ARRINGTON: No.

10          MARK SWARTZ: No. Mr. Wilson doesn't do that for  
11 us. He's a very secretive guy. Sometimes I must say it  
12 appears to me that he is actually a filter. He keeps some  
13 things from us with good reason. Thank you. Here you go,  
14 Les, there's a copy.

15                   (Mr. Wilson and Mr. Arrington confer.)

16          BENNY WAMPLER: Okay, the record will show there  
17 are no others. You may proceed.

18

19                           LESLIE K. ARRINGTON

20                           DIRECT EXAMINATION

21 QUESTIONS BY MR. SWARTZ:

22           Q.       Les, you need to state your name for us.

23          COURT REPORTER: I need to swear him in.

24

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1           MARK SWARTZ: Well, hopefully he'll give us his  
2 true name without being under oath. But maybe we can start  
3 with that. Okay. All right.

4           (Mr. Arrington is duly sworn.)

5           Q.       You need to state your name for us.

6           A.       Leslie K. Arrington.

7           Q.       Who do you work for?

8           A.       CNX Gas Company, LLC.

9           Q.       And do you have a title?

10          A.       Manager of permitting and environmental.

11          Q.       Okay. Are you here on behalf of CNX today  
12 with regard to these pooling applications?

13          A.       Yes.

14          Q.       Okay. Is CNX Gas Company a limited  
15 liability company?

16          A.       Yes, it is.

17          Q.       And as such, is it in essence a Virginia  
18 General partnership, which is a wholly owned indirect  
19 subsidiary of Consol Energy, Inc.?

20          A.       Yes.

21          Q.       Is CNX authorized to do business in the  
22 Commonwealth?

23          A.       Yes, it is.

24  
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1           Q.       With regard to both of these combined  
2 applications, CNX is that applicant, is that correct?

3           A.       Yes.

4           Q.       And in both of these situations is CNX, the  
5 applicant, requesting that CNX also be designated the Board's  
6 operator if these applications were approved?

7           A.       Yes, we are.

8           Q.       And with regard to operational issues, is  
9 CNX registered with the Department of Mines, Minerals and  
10 Energy?

11          A.       Yes.

12          Q.       And does it have a blanket bond on file?

13          A.       Yes, it does.

14          Q.       What did you do to notify the respondents,  
15 there are a number of people in I-39 and only one really are  
16 in an estate in A-23, but what did you do to notify them of  
17 the hearing today?

18          A.       Yes. We published I-39 in the Bluefield  
19 Daily Telegraph on 6/29/2004. We mailed it by certified mail  
20 on June the 18th of 2004. Unit A-23, we mailed it originally  
21 on 6/18/2004 and published in the Bluefield Daily Telegraph  
22 2004. We discovered we had an error and we remailed it on  
23 July the 8th, 2004, and published again on July the 9th,

24

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1 2004.

2 Q. Okay. And have you filed proofs with regard  
3 to mailing and with regard to publication with Mr. Wilson?

4 A. Yes, we have.

5 Q. With regard to...also, with regard to these  
6 units, are they both Oakwood I units?

7 A. Yes, they are.

8 Q. And both of them involve 80 acre units, is  
9 that correct?

10 A. Yes.

11 Q. And both have or propose to drill one well  
12 within the drilling windows?

13 A. That's correct.

14 Q. Okay. Do you want to add any respondents or  
15 subtract any respondents to or from either of these  
16 applications today?

17 A. No.

18 Q. Let's start with some of the specifics then  
19 and look at I-39, okay. What is the interest that you've  
20 acquired or interests that you've acquired and what is it  
21 that you're seeking to pool today?

22 A. We have 56.8386% of the coal owner's claim  
23 to coalbed methane leased; 58.9261% of the oil and gas

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1 owner's claim to coalbed methane leased; we have 99.85% of  
2 the coal leased; and we're seeking to pool 43.1614% of the  
3 coal owner's claim to coalbed methane; and 41.0739% of the  
4 oil and gas owner's claim to coalbed methane.

5 Q. Are there some competing leases here?

6 A. Yes, there is. Appalachian Energy has, of  
7 the oil and gas interest, has 34% of that interest leased.

8 Q. And you've joined them as a respondent, I  
9 take it?

10 A. Yes, we have.

11 Q. Okay. And any pooling order that would be  
12 entered by the...by the Board would need to reflect that and  
13 you have asked or---?

14 A. Yes, we do.

15 Q. ---at least in your B-3 identified the folks  
16 that are affected by those leases, but any Board order would  
17 need to afford Appalachian Energy a participation option?

18 A. Yes.

19 Q. With regard to this well, have you provided  
20 a cost estimate?

21 A. Yes, we have, \$228,970.27 to an estimated  
22 depth of 1944 feet.

23 Q. And is there a...is this well drilled...is  
24

1 there a permit?

2 A. No, there is not.

3 Q. Not as yet. With regard to matters

4 affecting escrow, it looks like there are life estates

5 in...or at least the payment of moneys, there are life

6 estates in Tracts 6, 11 and 13 that need to be noted in the

7 order.

8 A. I believe that's correct.

9 Q. Okay. And they're identified in your

10 Exhibit B-3---?

11 A. Uh-huh.

12 Q. ---correct?

13 A. Yes.

14 Q. And with regard to folks whose addresses are

15 unknown or who are unknown, there are several of those, not a

16 lot, but several---?

17 A. Right.

18 Q. ---in Tracts 5 and 6, which would be a

19 reason for escrow for unknowns or unlocateables in Tracts 5

20 and 6, is that correct?

21 A. Correct.

22 Q. And then with regard to conflicts, there is

23 an Exhibit E, which you've provided the Board that indicates

24

1 that there are conflicts that would require escrow in Tracts  
2 5, 6, 8, 11, 12 and 13, is that correct?

3 A. That's correct.

4 Q. And then lastly, with regard to payment  
5 issues, have you also provided the Board with an Exhibit EE?

6 A. Yes, we have.

7 Q. So, you're indicating that there are written  
8 royalty split agreements in place at least with regard to  
9 some of the folks involved in this unit?

10 A. Yes.

11 Q. And are those agreements...those royalty  
12 split agreements, in effect and at least in part, affecting  
13 Tracts 4, 11 and 13?

14 A. Yes, they are.

15 Q. And are you requesting that the Board allow  
16 the operator to pay the folks identified in Exhibit EE  
17 directly rather than escrowing their funds in accordance with  
18 the terms of their written agreements?

19 A. Yes, we are.

20 Q. Obviously, you've leased over half of the  
21 coal and the oil and gas claims and the interest in this  
22 unit. Would you tell the Board what terms you have been  
23 offering to obtain those leases and what your recommendation

24

--

1 would be with regard to the deemed to have been leased  
2 provision?

3 A. Yes. Our standard coalbed methane lease is  
4 a dollar per acre per year, with a five year paid up term,  
5 with a one-eighth production royalty once the well goes into  
6 production.

7 Q. Okay. And is that what you would recommend  
8 that the Board would include in any order as well?

9 A. Yes, we do.

10 Q. Turning to A-23, I believe you filed some  
11 revised exhibits---

12 A. Yes, we did.

13 Q. ---with regard to that.

14 A. Yes, we did.

15 Q. And to just sort of focus the Board on what  
16 caused the revision, if I'm not mistaken, you revised Exhibit  
17 B-3 and the tract identifications?

18 A. We revised Exhibit B-3, I believe.

19 Q. Okay. And the revision in Exhibit B-3  
20 essentially dealt with Tract 1, am I correct?

21 A. Yes, it was.

22 Q. And was that revision to add the people  
23 after the small letter c, d, e and f?

24

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1           A.       Yes, it was.

2           Q.       And collectively, what is their interest or  
3 claim as royalty owners in this unit?

4           A.       0.02202%.

5           Q.       Okay. And these are the folks that  
6 requested a continuance?

7           A.       Yes, it was.

8           Q.       Okay.

9           BENNY WAMPLER: We don't have that information that  
10 you're talking about.

11           BOB WILSON: I have a copy of the revision here.

12           LESLIE K. ARRINGTON: Do you have the revision?

13           BOB WILSON: Uh-huh. These came in after the mail  
14 went out.

15           BENNY WAMPLER: I'll just ask you to repeat that  
16 testimony.

17           Q.       Right. If you would...if you would turn to  
18 Tract 1, either coal fee or oil and gas fee. Les, there  
19 are...in the revision there are people from A through F, is  
20 that correct?

21           A.       That's correct.

22           Q.       And the change in the revised exhibit that  
23 we're now referring to that the Board members now have, was  
24

1 to add the folks from c to f, is that correct?

2 A. That's correct.

3 Q. And the interest collectively of

4 those...those folks from c to f in this unit were actually in

5 this tract...from a to f is what?

6 A. It's 0.02202.

7 Q. Percent?

8 A. Percent.

9 Q. Okay. With regard...again, with regard to

10 the pooling application concerning A-23, tract...these folks

11 in Tract 1 that we just referred to are indeed the only

12 people that you're seeking to pool?

13 A. They are.

14 Q. And you've already told us what their

15 interest is collectively?

16 A. Yes.

17 Q. Tell the Board what you've been able to

18 lease in this unit.

19 A. We've leased 99.97798% of the coal, oil and

20 gas within this unit.

21 Q. Have you provided the Board with a well

22 estimate?

23 A. Yes, we have. It's \$219,125.60, to a depth

24



1 of 2495.68. Permit number is 6069.

2 Q. And this well apparently has been permitted  
3 and drilled?

4 A. Yes, it has.

5 Q. Okay. And it does not look like there's any  
6 escrow requirement in this unit with regard to conflicts, but  
7 given the revised exhibit, at least temporarily, there would  
8 be a requirement that may be solved by the time you submit  
9 the supplemental order---?

10 A. That's correct.

11 Q. ---for unlocateables in Tract 1?

12 A. That's correct.

13 Q. Lastly, Mr. Arrington, two...two opinion  
14 questions for you, first of all, is it your opinion that the  
15 plan for development, which is specifically here to drill one  
16 frac well in the drilling window of each of these two units,  
17 is a reasonable plan to develop the coalbed methane in and  
18 under these units?

19 A. Yes, it is.

20 Q. And is it also your opinion that if you take  
21 the leases that your company has obtained and you combine  
22 that with a pooling order dealing with the one outstanding  
23 interest that we're talking about here today, that all of the

24

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1 owners and the...and the claimants would be protected and  
2 their correlative rights would be protected either by virtue  
3 of the leases that CNX has obtained or by virtue of the  
4 pooling order that the Court...that the Board might enter?

5 A. Yes, it will.

6 MARK SWARTZ: That's all I have.

7 BENNY WAMPLER: Any questions from members of the  
8 Board?

9 (No audible response.)

10 BENNY WAMPLER: I had one question on I-39. You...  
11 you...well, I guess, starting with, maybe, on Tract 12. It  
12 could have been before that maybe. But you have, "or due to  
13 mapping overlap". Would you just describe that a little bit?

14 LESLIE K. ARRINGTON: Sure. When you map the  
15 tracts, for that tract that we've got listed there, the two  
16 plots overlap one another and we cannot determine which  
17 property owner owns it and that's what we're showing there is  
18 it actually overlaps. Until someone can remedy that problem,  
19 that tract would be in conflict.

20 MARK SWARTZ: It's listed on Exhibit E, but there  
21 are really two reasons. There's the overlap issue and the  
22 conflict issue.

23 BENNY WAMPLER: Other questions from member of the  
24

1 Board?

2 (No audible response.)

3 BENNY WAMPLER: Do you have anything further?

4 MARK SWARTZ: No.

5 BENNY WAMPLER: Is there a motion?

6 DONALD RATLIFF: So moved, Mr. Chairman.

7 BENNY WAMPLER: Is there---?

8 JIM MCINTYRE: Second.

9 BENNY WAMPLER: Motion for approval and second.

10 Any further questions?

11 (No audible response.)

12 BENNY WAMPLER: All in favor, signify by saying

13 yes.

14 (All members signify by saying yes.)

15 BENNY WAMPLER: Opposed, say no.

16 (No audible response.)

17 BENNY WAMPLER: You have approval. The next item

18 on the agenda is a petition from CNX Gas Company, LLC for

19 pooling of a coalbed methane unit AV-100, docket number VGOB-

20 04-0720-1306. We'd ask the parties that wish to address the

21 Board in this matter to come forward at this time.

22 (Mr. Swartz and Mr. Arrington confer.)

23 MARK SWARTZ: I was going to ask to combine the

24

1 five Nora units. But let's just do AV-100 by itself because  
2 we actually have some folks here on that and that might  
3 simplify their job and ours.

4 BENNY WAMPLER: All right. Would you state your  
5 name for the record, please?

6 GREGORY ALLEN HESS: Allen...well, Gregory Allen  
7 Hess.

8 BENNY WAMPLER: Thank you. The record will show  
9 there are no others. You may proceed.

10 LESLIE K. ARRINGTON

11 DIRECT EXAMINATION

12 QUESTIONS BY MR. SWARTZ:

13 Q. Les, you need to state your name again for  
14 us.

15 A. Leslie K. Arrington.

16 Q. The...who do you work for?

17 A. CNX Gas Company, LLC.

18 Q. What do you do for them?

19 A. Manager of environmental and permitting.

20 Q. Were you the fellow who actually prepared or  
21 caused to be prepared the notice of hearing, application and  
22 related exhibits with regard to the petition to pool AV-100?

23 A. Yes, I was.

24

--

1           Q.       What did you do to notify the people that  
2 you're seeking to pool today?

3           A.       We mailed by certified mail, return receipt  
4 on June the 18th, 2004. We published in the Bluefield Daily  
5 Telegraph on June the 23rd, 2004.

6           Q.       Have you filed proofs of publication and  
7 mailing with Mr. Wilson?

8           A.       Yes, we have.

9           Q.       Who's the applicant?

10          A.       CNX Gas Company.

11          Q.       Is CNX Gas Company a limited liability  
12 company?

13          A.       Yes, it is.

14          Q.       And as such, is it, in essence, a Virginia  
15 General Partnership and a wholly owned indirect subsidiary of  
16 Consol Energy, Inc.?

17          A.       Yes, it is.

18          Q.       Is it authorized to do business in the  
19 Commonwealth?

20          A.       Yes, it is.

21          Q.       Who is the applicant asking be appointed  
22 designated operator if an order is entered?

23          A.       CNX Gas Company.

24

1 Q. Is CNX registered with the DMME?  
2 A. Yes, it is.  
3 Q. And does it have a blanket bond on file as  
4 required by law?  
5 A. Yes.  
6 Q. Have you listed all of the folks that you  
7 want to pool in notice of hearing and Exhibit B-3?  
8 A. Yes, we have.  
9 Q. So you don't want to add anybody today?  
10 A. No.  
11 Q. And you don't want to deduct anybody either?  
12 A. No.  
13 Q. With regard to the plan for development in  
14 this unit, if we look at the plat, does the plat show a  
15 drilling window?  
16 A. Yes, it does.  
17 Q. And is the well located within that window?  
18 A. Yes, it is.  
19 Q. And how many wells are you proposing to  
20 drill in this unit?  
21 A. One.  
22 Q. Have you provided a cost estimate with  
23 regard to that well?  
24

1           A.       Yes, we have, \$226,86103, to a depth of  
2 2,428.44 feet.

3           Q.       The permit number?

4           A.       6095, drilled on May the 19th, 2004.

5           Q.       Okay. What interests are you seeking to  
6 pool today?

7           A.       We're seeking to pool 16.9377% of the oil  
8 and gas owner's claim to coalbed methane.

9           Q.       And apparently you've leased or acquired  
10 100% of the coal claims to coalbed methane?

11          A.       Yes, that's correct.

12          Q.       If someone wanted to figure out what their  
13 claim was, would they look at Exhibit B-3?

14          A.       Correct.

15          Q.       Okay. And, for example, here Exhibit B-3  
16 after the various names, shows a percentage?

17          A.       It does.

18          Q.       So, if Mr. Allen Hess wanted to know what  
19 his percent of unit was, he would look at Exhibit B-3, and  
20 what would it tell him?

21          A.       It would give him the percent of interest  
22 within the unit, which is 3.2753%.

23          Q.       Okay. And if he were to want to determine  
24

1 what his percentage might be if he wanted to participate,  
2 what costs he would need to come up with, he would...he would  
3 do what calculation?

4 A. Take that percent of interest and multiple  
5 it times the cost...estimated cost of the well.

6 Q. Okay. So, it would be 3.2753% times, with  
7 regard to AV, \$226,861.03, and that would be the  
8 participation costs?

9 A. Yes, it would be.

10 Q. Okay. If he wanted to figure out what his  
11 royalty interest would be, he would take the same percentage  
12 times 12½% and that would be his royalty interest in this  
13 particular unit?

14 A. That's correct.

15 Q. In terms of what you've been paying to  
16 obtain leases, what are those terms?

17 A. For a coalbed methane lease, it's a dollar  
18 per acre per year, a five year paid up term, one-eighth  
19 production royalty.

20 Q. And would you ask that the Board incorporate  
21 similar terms in any order it might enter?

22 A. Yes, we would.

23 Q. This is a Nora unit, is that correct?

24

--



1 A. Yes, it is.

2 Q. And how many acres?

3 A. 51.66.

4 Q. And all the calculations of percentages are  
5 done with 51.66 as a starting---?

6 A. Yes, it is.

7 Q. ---point, correct?

8 A. That's correct.

9 Q. Is it your opinion that the plan for  
10 development of this unit, as disclosed by the applications  
11 and exhibits to drill one frac well in the drilling window,  
12 is a reasonable plan and a reasonable method to extract  
13 coalbed methane from this unit for the benefit of the owners  
14 and claimants?

15 A. Yes, it is.

16 Q. Is it your further opinion that if the Board  
17 were to enter an order pooling the outstanding interests here  
18 taking, that pooling order in conjunction with the leases and  
19 other agreements you've entered into, all of the owners and  
20 claimants' correlative rights would then be protected?

21 A. Yes, it would be.

22 MARK SWARTZ: That's all I have.

23 BENNY WAMPLER: Questions from members of the  
24

1 Board?

2 (No audible response.)

3 BENNY WAMPLER: Mr. Hess, did you say your first  
4 name was Gregory?

5 GREGORY ALLEN HESS: Gregory.

6 BENNY WAMPLER: Gregory Allen Hess?

7 MARK SWARTZ: I'm sorry, I got the wrong---.

8 DONALD RATLIFF: I think it's right.

9 BENNY WAMPLER: It's...you have Allen Hess.

10 MARK SWARTZ: Right. We just need to add another  
11 one.

12 GREGORY ALLEN HESS: I go by Allen.

13 MARK SWARTZ: Oh, okay. Okay.

14 BENNY WAMPLER: Okay. I thought you might want...  
15 you need to correct the record on that. Okay, do you have  
16 any questions or comments you want to address?

17 GREGORY ALLEN HESS: Well, see, Mom didn't sign  
18 with them, you know, for the site. The line fence, you know,  
19 that marked the line, they went just over on the uncle's  
20 property maybe a 150 foot, for instance...I mean, you know, I  
21 never measured it. Carl Bells, I believe I talked to him on  
22 the telephone. He said they force pooled. He also told me  
23 the state leased Mom's gas to him, to Consol. I mean, that's  
24

1 just hearsay. I mean, that's my word everywhere else.  
2 That's---.

3 BENNY WAMPLER: That the state owned it before?  
4 GREGORY ALLEN HESS: Well, he said that being as  
5 Mom didn't sign, you know, for...you know, sign with them,  
6 they forced pooled it and the state leased her gas to Consol.  
7 Now, that's what he told me. Now, whether...whether that's  
8 good or not---.

9 BENNY WAMPLER: Les, do you have any---?  
10 LESLIE K. ARRINGTON: I feel sure that it sounded  
11 something similar to that, that we go through the force  
12 pooling procedures and he would, you know, get the Board and  
13 get those options to be force pooled, which is a deemed lease  
14 and in two participation options. Maybe Carl didn't explain  
15 it exactly right. I'm sure Carl was trying to get the  
16 message across to him properly.

17 BENNY WAMPLER: Do you understand what he's saying?  
18 GREGORY ALLEN HESS: Well, not exactly. I mean,  
19 break it down to where---.

20 LESLIE K. ARRINGTON: Okay. Okay, sure.  
21 What...what Carl probably, and not being there with you and  
22 Carl---.

23 GREGORY ALLEN HESS: Well, we was on the phone is  
24

1 what it was.

2 LESLIE K. ARRINGTON: Was you?

3 GREGORY ALLEN HESS: Uh-huh.

4 LESLIE K. ARRINGTON: And they offered---.

5 BENNY WAMPLER: Well, don't---.

6 LESLIE K. ARRINGTON: ---you a lease or offered  
7 your mom a lease.

8 GREGORY ALLEN HESS: Yeah.

9 LESLIE K. ARRINGTON: And so if you didn't want to  
10 take that lease, that left us the option of having to come  
11 before the Virginia Gas and Oil Board here---.

12 GREGORY ALLEN HESS: Yeah.

13 LESLIE K. ARRINGTON: ---and do what's called this  
14 force pooling.

15 GREGORY ALLEN HESS: Force pooling.

16 LESLIE K. ARRINGTON: And...and I'm sure Carl tried  
17 to explain that to you where you had some options to  
18 either...it will either be leased or you had some  
19 participation options to either be a carried operator or  
20 participate in the well. If he didn't, then those two...  
21 those two options he may...he may not have explained the two  
22 participating. He may have only explained if you didn't  
23 lease, we would have to come to the force pooling.

24

--

1           GREGORY ALLEN HESS: Okay. Well, how...he talked  
2 about the state. Now, that's what got me.

3           LESLIE K. ARRINGTON: Okay. Well---.

4           GREGORY ALLEN HESS: I mean, the fellow, I believe  
5 he said he was with the state, didn't you?

6           LESLIE K. ARRINGTON: Uh-huh. They are. Bob and  
7 Mr. Wampler are with the---.

8           GREGORY ALLEN HESS: Okay.

9           LESLIE K. ARRINGTON: ---Virginia Gas and Oil  
10 Board.

11          GREGORY ALLEN HESS: Uh-huh.

12          LESLIE K. ARRINGTON: So...and that's what we're  
13 here for today is to force pool that interest since you  
14 didn't do a lease with us.

15          GREGORY ALLEN HESS: Yeah...yeah, Mom wouldn't sign  
16 nothing. I mean, you know, and I was just wondering...well,  
17 from up on the ridge from where the well is, it drilled down  
18 to Mom's house. For instance, my hand, and it came down, it  
19 ain't 200 foot from her house. I mean, you know, as steep as  
20 the ridge is. Well, you'uns live in Buchanan County  
21 probably, or some of you'ns in Dickenson or Wise---.

22          LESLIE K. ARRINGTON: Uh-huh.

23          GREGORY ALLEN HESS: ---and how steep the ridges  
24

1 are and then you end up here on top of this ridge and you go  
2 down, why you'd be right against somebody's house. I  
3 mean---.

4 LESLIE K. ARRINGTON: I think she must live down in  
5 this vicinity.

6 GREGORY ALLEN HESS: Down in there, yeah.

7 LESLIE K. ARRINGTON: Down there. Our wells are  
8 kind of up here on top of the hill.

9 GREGORY ALLEN HESS: On top of the ridge, yeah, on  
10 Stinson Ridge.

11 LESLIE K. ARRINGTON: And it's quite a distance  
12 horizontally down to her house. If you'll scale...this is a  
13 flat distance here if you'll scale that distance to that  
14 tract right here.

15 GREGORY ALLEN HESS: What is that, a inch per what,  
16 100 foot.

17 LESLIE K. ARRINGTON: That's 400.

18 GREGORY ALLEN HESS: 400 scale?

19 LESLIE K. ARRINGTON: Uh-huh. And so that distance  
20 would be---.

21 MARK SWARTZ: 500 or 600 feet.

22 GREGORY ALLEN HESS: Would that end of being...  
23 okay, well. I mean, you know, I never did---.  
24  
~

1           LESLIE K. ARRINGTON: See. if you scale it off of  
2 there, it's approximately...just an approximate 800 feet---.  
3           GREGORY ALLEN HESS: Okay.  
4           LESLIE K. ARRINGTON: ---horizontal.  
5           GREGORY ALLEN HESS: So that...well, the reason I  
6 came...I mean, you know, what Carl said where the state  
7 leased her gas. I mean, ain't she...won't she be entitled to  
8 something?  
9           LESLIE K. ARRINGTON: Oh, there...there will be a  
10 production royalty paid attributable to this tract. But  
11 since there's a coal owner and---.  
12           GREGORY ALLEN HESS: Yeah, Big X Coal Company.  
13           LESLIE K. ARRINGTON: Right. And a mineral or oil  
14 and gas owner, since it's not been determined who owns the  
15 coalbed methane, this money will go into the escrow account.  
16           GREGORY ALLEN HESS: Escrow that there.  
17           LESLIE K. ARRINGTON: And that is also listed in  
18 here on Exhibit E. It's listed on our Exhibit E that this  
19 money will go into the escrow account.  
20           GREGORY ALLEN HESS: Okay, what do you do with that  
21 escrow? I mean, after it's settled or ever what, what do you  
22 do, split that up amongst or go back to the percentage? I  
23 heard you say something about you'ns leased 99 or 97 point  
24

1 some percent off of somebody here.

2 LESLIE K. ARRINGTON: Actually, in this unit, we  
3 have leased 83.0623% of the oil.

4 GREGORY ALLEN HESS: Okay. Who gets the other 17  
5 or 16 something?

6 LESLIE K. ARRINGTON: Well, it's...the other 17% is  
7 listed in our Exhibit B-3.

8 GREGORY ALLEN HESS: Okay.

9 LESLIE K. ARRINGTON: If you'll look at that, right  
10 here, this is all the owners right here.

11 GREGORY ALLEN HESS: Yeah.

12 LESLIE K. ARRINGTON: Okay. And---.

13 GREGORY ALLEN HESS: That's me and Regina---.

14 LESLIE K. ARRINGTON: Uh-huh. Okay.

15 GREGORY ALLEN HESS: Yeah. Okay.

16 LESLIE K. ARRINGTON: And there's the rest of the  
17 owners.

18 GREGORY ALLEN HESS: Uh-huh.

19 LESLIE K. ARRINGTON: Now, this...since there's a  
20 coal owner, this money is going to go into escrow until you  
21 guys...you all and the coal owner either work out an  
22 agreement or it goes to Circuit Court and there's a  
23 determination who the proper coalbed methane owner is.  
24



1           GREGORY ALLEN HESS: Really owns the methane?  
2           LESLIE K. ARRINGTON: That's correct.  
3           GREGORY ALLEN HESS: Does the methane, does it fall  
4 under minerals?  
5           LESLIE K. ARRINGTON: I'll let Mark answer that.  
6           MARK SWARTZ: Yes.  
7           GREGORY ALLEN HESS: Huh?  
8           MARK SWARTZ: Yes, it's a mineral.  
9           GREGORY ALLEN HESS: It's a mineral.  
10          MARK SWARTZ: As far as I'm concerned, but all  
11 you're getting is one lawyer's opinion.  
12          GREGORY ALLEN HESS: Okay. As far as you're  
13 concerned?  
14          MARK SWARTZ: Right. Now, if you look at...if you  
15 look at---.  
16          GREGORY ALLEN HESS: See that's odorless,  
17 tasteless. I mean, I worked in the coal mines.  
18          MARK SWARTZ: I'm just giving you my opinion. I'm  
19 not expecting you to agree with me. You asked a question and  
20 you got an answer.  
21          GREGORY ALLEN HESS: I've got seventeen years...  
22 okay, okay.  
23          MARK SWARTZ: Okay.  
24

1           GREGORY ALLEN HESS: I've got seventeen years in  
2 the coal mines. I've watched it. I run a miner. I've  
3 watched it light up around that ripper head.

4           MARK SWARTZ: If you look at the next exhibit,  
5 you'll see that your coal owner is a person that works things  
6 out with people all the time. The next exhibit is a list of  
7 all the people that Harrison-Wyatt---.

8           GREGORY ALLEN HESS: Yeah.

9           MARK SWARTZ: ---has worked out split agreements  
10 with.

11          GREGORY ALLEN HESS: I looked at that. It  
12 don't---.

13          MARK SWARTZ: So, I mean, for what it's worth, you  
14 know, you might want to get a hold of Landon and see if you  
15 can work out a split agreement with him and then the money  
16 would not be escrowed. It would come out as it was paid.

17          GREGORY ALLEN HESS: What amount...I mean, you  
18 know, what---?

19          MARK SWARTZ: Well---.

20          GREGORY ALLEN HESS: What is one of...instead of  
21 splitting it, what is the full amount you paid well, Water or  
22 ever what his name is? Well, is it 12½ or what?

23          MARK SWARTZ: The problem...the problem in your  
24

1 situation is your interest is subject to a life estate.

2 GREGORY ALLEN HESS: Yeah. Yeah, after---.

3 MARK SWARTZ: Which means your life tenant is going

4 to get the money while she's alive.

5 GREGORY ALLEN HESS: Yeah, Mother. Yeah.

6 MARK SWARTZ: Okay. So, she would get collectively

7 the interest while she's alive.

8 GREGORY ALLEN HESS: Yeah, that's the reason I'm

9 here today, for Mom.

10 MARK SWARTZ: Okay. What you need to do, if you

11 want to, is try to work out an arrangement with Landon Wyatt

12 where you would split in half---.

13 GREGORY ALLEN HESS: Okay.

14 MARK SWARTZ: ---the total amount of money

15 attributable to that 8.46 acre tract. So basically what I'm

16 saying is if you look at...show him the exhibit because it's

17 hard to follow if you don't...this tract that Harrison-Wyatt

18 owns the coal under, okay?

19 GREGORY ALLEN HESS: Okay.

20 MARK SWARTZ: It's an 8.46 acres in this unit.

21 GREGORY ALLEN HESS: Yeah.

22 MARK SWARTZ: Okay. And then your...is it your

23 mom?

24

--

1           GREGORY ALLEN HESS: It's my mother, yes.

2           MARK SWARTZ: Okay. Then your mom has the oil and  
3 gas ownership---.

4           GREGORY ALLEN HESS: Yeah.

5           MARK SWARTZ: ---of that same tract. What I'm  
6 suggesting is that's...then if you come over, you can see  
7 that that's 16.3763%---.

8           GREGORY ALLEN HESS: Yeah.

9           MARK SWARTZ: ---of the revenue in this unit. So  
10 basically if you could cut a deal with Harrison-Wyatt, your  
11 mom would be receiving a little over 8% of the royalty.

12           GREGORY ALLEN HESS: A little over 8%.

13           MARK SWARTZ: Of the royalty.

14           GREGORY ALLEN HESS: Okay.

15           MARK SWARTZ: So if it paid, you know, a \$100 on  
16 this tract in royalty, you know, on this particular tract,  
17 Harrison-Wyatt would get 50 and she'd get 50.

18           GREGORY ALLEN HESS: Okay.

19           MARK SWARTZ: You know, but it's of the total  
20 that's paid to this particular 50...actually is this a  
21 50...so 51.66 acre unit.

22           GREGORY ALLEN HESS: Yeah.

23           MARK SWARTZ: So, the total amount that got paid to  
24

1 this unit for that well, you guys would be splitting  
2 16.3763%. Harrison-Wyatt usually agrees to split it 50/50.  
3 That's why I'm suggesting that your mom would be receiving  
4 half of that. Now, when she passed, you know, you'd each get  
5 a fifth of that number.

6 GREGORY ALLEN HESS: Well, that---.

7 MARK SWARTZ: Well, I'm just saying that's how that  
8 would work---.

9 GREGORY ALLEN HESS: Okay.

10 MARK SWARTZ: ---because she's got the life estate.

11 GREGORY ALLEN HESS: Yeah, she's got the---.

12 MARK SWARTZ: I assume you guys are remaindermen,  
13 which is why you're listed here.

14 GREGORY ALLEN HESS: Yeah. See, they...they met  
15 with my brother and them and it was another fellow, my  
16 neighbor, or ever what, he said I'd check into that. They  
17 never did send me nothing until just here, what, the 19th or  
18 something of...when I started calling Carl, that's the only  
19 time I ever got anything showing anything.

20 LESLIE K. ARRINGTON: Uh-huh.

21 GREGORY ALLEN HESS: I mean, they were just like I  
22 didn't exist.

23 MARK SWARTZ: Well, presumably they were talking to  
24

--

1 your mom. I mean, that's all I can guess, you know.

2 GREGORY ALLEN HESS: And then a lady...well, I

3 talked to Carl and he called me back on a Saturday morning.

4 Then I got a package of---.

5 LESLIE K. ARRINGTON: This.

6 GREGORY ALLEN HESS: ---that right there.

7 MARK SWARTZ: Right.

8 GREGORY ALLEN HESS: And a lady called me from

9 Consol and wanted the rest of them's addresses and stuff,

10 Brenda's and Regina's and Jimmy's, Tammy's, you know, that I

11 knowed. I gave it to her. Then---.

12 MARK SWARTZ: So that we could mail it out as well.

13 GREGORY ALLEN HESS: Yeah.

14 MARK SWARTZ: Right.

15 GREGORY ALLEN HESS: Then the little paper or ever

16 what came, you know, for today.

17 LESLIE K. ARRINGTON: Uh-huh.

18 MARK SWARTZ: Right.

19 LESLIE K. ARRINGTON: Well, again, if you'd like to

20 work out a lease and a royalty split, I'll certainly get

21 someone in touch with you because I don't carry that

22 information with me---.

23 GREGORY ALLEN HESS: Uh-huh.

24

--

1           LESLIE K. ARRINGTON: ---you know, if that's what  
2 you want to do, we---.

3           GREGORY ALLEN HESS: Well, let me talk to Mother  
4 or---.

5           LESLIE K. ARRINGTON: Okay. Sure.

6           GREGORY ALLEN HESS: ---Jewell. I like Jewell...  
7 that's my brother-in-law.

8           LESLIE K. ARRINGTON: Okay.

9           GREGORY ALLEN HESS: I mean, he married my baby  
10 sister.

11          LESLIE K. ARRINGTON: Okay.

12          MARK SWARTZ: And Landon Wyatt, the coal owner, is  
13 relatively easy to deal with.

14          GREGORY ALLEN HESS: They own...well, you've got  
15 the Upper Banner, Lower Banner, Widow Kennedy, Jawbone---.

16          MARK SWARTZ: Everything above the Jawbone is above  
17 drainage, though. So, we're really...there's no coalbed  
18 methane in the above drainage.

19          GREGORY ALLEN HESS: Yeah, I know. I've worked---.

20          MARK SWARTZ: So---.

21          GREGORY ALLEN HESS: ---in the Widow Kennedy.

22          MARK SWARTZ: ---we're really talking about the  
23 deep stuff. But, you know, Landon...as far as I can tell,  
24

1 you know, Landon Wyatt or Harrison Wyatt owns that coal. So,  
2 that would be the people you'd need---.

3 GREGORY ALLEN HESS: They own the upper seams  
4 or---.

5 MARK SWARTZ: I don't know about the upper seams.  
6 They own...it doesn't matter because the upper seams aren't  
7 producing coalbed methane.

8 GREGORY ALLEN HESS: Okay, okay. So, they...  
9 they've got mineral rights on below that, in other words.

10 MARK SWARTZ: Sometimes the shallow coal is owned  
11 by different folks and we---.

12 GREGORY ALLEN HESS: Yeah.

13 MARK SWARTZ: ---have to deal with them on a  
14 permits---.

15 GREGORY ALLEN HESS: Well, Big X...Big X Coal  
16 Company, I believe is what it said.

17 LESLIE K. ARRINGTON: They own it all.

18 GREGORY ALLEN HESS: They---.

19 MARK SWARTZ: They own it all here.

20 LESLIE K. ARRINGTON: Okay.

21 BENNY WAMPLER: And if you did work out that kind  
22 of agreement that they just talked with you about, the check  
23 would go to his mother?

24

--



1           LESLIE K. ARRINGTON: Yes.

2           MARK SWARTZ: Right. While she was alive.

3           GREGORY ALLEN HESS: Oh, yeah. That's were I'd  
4 want it to go to.

5           BENNY WAMPLER: Rather than the money going into  
6 escrow.

7           GREGORY ALLEN HESS: I don't want---.

8           LESLIE K. ARRINGTON: Okay.

9           GREGORY ALLEN HESS: I work for a contractor for  
10 Consol.

11          LESLIE K. ARRINGTON: Uh-huh.

12          BENNY WAMPLER: Yeah.

13          GREGORY ALLEN HESS: I pump these wells.

14          LESLIE K. ARRINGTON: Okay, okay. If you...so Carl  
15 has your phone number or---?

16          GREGORY ALLEN HESS: He's suppose to have.

17          LESLIE K. ARRINGTON: Okay.

18          GREGORY ALLEN HESS: And...I mean, I'd rather...I  
19 don't know what he was into that day or what, but I can talk  
20 to a man personally better than I can on the phone. I mean,  
21 you know---.

22          LESLIE K. ARRINGTON: Okay.

23          MARK SWARTZ: Well, he'll come out and visit with  
24

1 you, too. Just call make an appointment and he'll come talk  
2 to you.

3 GREGORY ALLEN HESS: Well, he needs to send  
4 somebody to break it down to where I can understand it.

5 LESLIE K. ARRINGTON: Okay. We'll do it.

6 GREGORY ALLEN HESS: Yeah. And then---.

7 LESLIE K. ARRINGTON: Okay. We can do that.

8 GREGORY ALLEN HESS: Okay.

9 BENNY WAMPLER: All right. Thank you.

10 GREGORY ALLEN HESS: Thank you.

11 LESLIE K. ARRINGTON: Thank you.

12 BENNY WAMPLER: Do you all have anything further?

13 MARK SWARTZ: The only thing I would...I would  
14 point out is that there...we've provided an Exhibit E with  
15 regard to conflicts, which lists the tracts, Les, you need to  
16 follow me here, which would be 1B, 1E, 1C, 1F and 1G in terms  
17 of conflict escrow. There's a life estate issue in Tract 1B  
18 that we've just talked about.

19 BENNY WAMPLER: Right.

20 MARK SWARTZ: Then we filed an Exhibit EE which  
21 lists the numerous split agreements affecting various tracts,  
22 which include 1A, 1D, 1H, 1I, 1J, 1K and 1L. Have I  
23 summarized that correctly?

24

--

1           LESLIE K. ARRINGTON: Yes...yes, you have.

2           MARK SWARTZ: That's the only thing I would add.

3           BENNY WAMPLER: Okay. Questions from members of

4 the Board?

5           (No audible response.)

6           BENNY WAMPLER: Is there a motion?

7           JIM MCINTYRE: Motion to approve.

8           DONALD RATLIFF: Second.

9           BENNY WAMPLER: Motion and second. Any further

10 discussion?

11           (No audible response.)

12           BENNY WAMPLER: All in favor, signify by saying

13 yes.

14           (All members signify by saying yes.)

15           BENNY WAMPLER: Opposed, say no.

16           (No audible response.)

17           BENNY WAMPLER: You have approval. The next item

18 on the agenda is a petition from CNX Gas Company, LLC for

19 pooling of a coalbed methane unit AV-117, docket number VGOB-

20 04-0720-1307. I believe you said that this may be subject to

21 combining with some others.

22           MARK SWARTZ: Right. This is a Middle Ridge unit.

23 The other two Middle Ridge units are docket numbers eight

24

1 and nine.

2 BENNY WAMPLER: Did you want to---?

3 MARK SWARTZ: And if you could combine...well,  
4 actually...yeah, those are the other two Middle Ridge. If  
5 you could combine those three, that would be great.

6 DONALD RATLIFF: Seven and eight.

7 MARK SWARTZ: Well, seven and eight on that  
8 schedule, but your docket has them---.

9 DONALD RATLIFF: Okay.

10 MARK SWARTZ: ---as eight and nine.

11 BENNY WAMPLER: Eight and nine, okay. Okay, the  
12 other two items are a petition from CNX Gas Company, LLC for  
13 pooling of coalbed methane unit BD-119, docket number VGOB-  
14 04-0720-1310; and a petition from CNX Gas Company, LLC for  
15 pooling of a coalbed methane unit BB-109, docket number VGOB-  
16 04-0720-1311. We'd ask the parties that wish to address the  
17 Board in these units to come forward at this time.

18 MARK SWARTZ: Mark Swartz and Les Arrington.

19 BENNY WAMPLER: The record will show there are no  
20 others. You may proceed.

21 MARK SWARTZ: Mr. Chairman, I would like to  
22 incorporate the testimony from the prior hearing with regard  
23 to the applicant and the designated operator and their  
24

1 corporate status and status with the DMME, and also with  
2 regard to the testimony concerning the lease terms, if I  
3 could.

4 BENNY WAMPLER: That will be incorporated.

5

6 LESLIE K. ARRINGTON

7 DIRECT EXAMINATION

8 QUESTIONS BY MR. SWARTZ:

9 Q. Les, could you state your name again for us.

10 A. Leslie K. Arrington.

11 Q. And who do you work for?

12 A. CNX Gas Company.

13 Q. Do you have a title?

14 A. Manager of environmental and permitting.

15 Q. Were you the person that prepared or caused

16 to be prepared the notices of hearing and the related

17 exhibits for these three pooling applicat...three Middle

18 Ridge pooling applications that we're going to be talking

19 about?

20 A. Yes, I was.

21 Q. And in effect you signed them?

22 A. Yes, I did.

23 Q. Okay. What did you do to notify the people

24

--

1 that you're seeking to pool at today's hearing?

2           A.       We mailed AV-117 on June the 18th, 2004;  
3 published on June the 24th of 2004 in the Bluefield Daily  
4 Telegraph. BD-119, we mailed June the 18th, 2004; published  
5 in the Bluefield Daily Telegraph July the 26th, 2004. BB-  
6 109, we mailed June the 18th, 2004 and published in the  
7 Bluefield Daily Telegraph on June the 28th, 2004.

8           Q.       Okay. Are each of these units a  
9 Middle...Middle Ridge units?

10          A.       Yes, they are.

11          Q.       And the acreage in AV-117 is 49.86, is that  
12 correct?

13          A.       That's correct.

14          Q.       And in...what's the acreage in BD-119?

15          A.       58.74, and BB-109 is 58.74.

16          Q.       Okay. And with regard to...how many wells  
17 are proposed for each of these units, how many?

18          A.       One.

19          Q.       And in AV-117, that well is located in the  
20 window, correct?

21          A.       Yes, correct.

22          Q.       And with regard to BD-119, it's not in the  
23 window?

24

--

1           A.       That's correct. It is not.

2           Q.       And with regard to BB-109, it's again in the  
3 window?

4           A.       Yes, it is.

5           Q.       Starting with AV-117, I've got some specific  
6 questions, first of all, did you provide a well cost  
7 estimate?

8           A.       Yes, we did. On AV-117, it was \$225,6...  
9 990.55 to a depth of 2,354.33 feet. Permit number is 6164  
10 and it was drilled on May the 27th, 2004.

11          Q.       Tell the Board what interest you've been  
12 able to acquire in AV-117 and what interest you're seeking to  
13 pool today.

14          A.       Yes. We have leased 94.31274% of the coal  
15 owner's claim to coalbed methane; and 96.7395% of the oil and  
16 gas owner's claim to coalbed methane. We have 95.0622% of  
17 the coal leased beneath the unit. We're seeking to pool  
18 5.68726% of the coal owner's claim; and 3.2605% of the oil  
19 and gas owner's claim to coalbed methane.

20          Q.       Have you filed a revised or an Exhibit E  
21 that was not originally included with regard to this unit?

22          A.       That's correct, we did.

23          Q.       Okay. And that shows that there is a  
24

1 conflict requiring escrow in Tract 5, is that correct?

2 A. That's correct, there is.

3 Q. It appears to me when I look at Exhibit B-3  
4 in the original application that in Tract 6 there are some  
5 address unknowns or have you been able to straighten that  
6 out?

7 A. No, we have not.

8 Q. Okay. So, with regard to Tract 6, there  
9 would also be an escrow requirement for several people whose  
10 addresses were unknown at the time you filed this  
11 application?

12 A. That's...that's correct.

13 Q. Other than that, though, there is no  
14 additional requirements in this unit AV-117, is that correct?

15 A. That's correct.

16 Q. Turning to BD-119, did you provide the Board  
17 with a well cost estimate?

18 A. Yes, we did. It's \$234,193.96, to a depth  
19 of 2672. Permit number is 6025.

20 Q. What interest have you been able to acquire  
21 in this unit and what is it you're seeking to pool?

22 A. We've leased 99.9978% of the coal owner's  
23 claim to coalbed methane; and 56.1436% of the oil and gas

24

--



1 owner's claim to coalbed methane. We're seeking to pool  
2 0.0022% of the coal owner's claim to coalbed methane; and  
3 43.8564% of the oil and gas owner's claim.

4 Q. And you've provided an Exhibit E with regard  
5 to conflicts here?

6 A. Yes, we have.

7 Q. And the tracts that are in conflict that  
8 require escrow are 1A, 1B, 1C, 1D, 1E and 1F, is that  
9 correct?

10 A. That's correct.

11 Q. There's also an Exhibit EE with regard to  
12 split agreements?

13 A. Yes, it is.

14 Q. And those affect Tract 1B?

15 A. Yes.

16 Q. Are you requesting that if the Board enters  
17 an order here, that you be allowed to pay the folks  
18 identified in Exhibit EE directly as opposed to escrowing  
19 their funds?

20 A. Yes, we are.

21 Q. There's also an address unknown issue with  
22 regard to Tract 1D, is that correct?

23 A. That's correct, it is.

24

--

1 Q. Have we summarized for the Board in terms of  
2 preparing an order all of the escrow issues?  
3 A. I believe.  
4 Q. Okay.  
5 BENNY WAMPLER: Let me...before you leave that, did  
6 you say 1F?  
7 MARK SWARTZ: I think I did. Let me look.  
8 LESLIE K. ARRINGTON: On...on what?  
9 MARK SWARTZ: Exhibit E. I show it as Swords Creek  
10 having coal and Charlie Paul having oil and gas. But---.  
11 BENNY WAMPLER: Okay. Thanks.  
12 MARK SWARTZ: I thought maybe you were missing a  
13 page possibly.  
14 BENNY WAMPLER: I thought I was. I was picking it  
15 up with another.  
16 MARK SWARTZ: Okay, that's fine.  
17 BENNY WAMPLER: Go ahead.  
18 Q. Les, a couple of opinion questions, first of  
19 all...actually strike that. We've got one more unit. Let's  
20 turn to BB-109, okay.  
21 A. Yes.  
22 Q. In preparing for the hearing today, we  
23 noticed that there is a mistake in one of the exhibits, did  
24

1 we...did we not.

2 A. Yes, it was on Exhibit A. The plat  
3 incorrectly has the field as Oakwood and it should have been  
4 Middle Ridge.

5 Q. And as far as we can tell that's the only  
6 instance in these documents where we got the wrong name; so,  
7 you're going to be tendering a corrected Exhibit A---?

8 A. Right.

9 Q. ---to correct that mistake? With regard to  
10 BB-109, there are no escrow requirements, correct?

11 A. That's correct.

12 Q. What are you seeking...what have you  
13 acquired and what are you seeking to pool?

14 A. We've acquired 98.2806% of the coal, oil and  
15 gas owner's claim to coalbed methane. We're seeking to pool  
16 1.7194% of the coal, oil and gas owner's claim to coalbed  
17 methane.

18 Q. Okay. And have you provided a well cost  
19 estimate?

20 A. Yes. \$255,38---.

21 Q. 8.

22 A. Is it 88?

23 Q. Yeah.

24

1           A.       I don't have my glasses on for that.  
2   ...88.55.  It's actually...its depth is 2,554 feet.  Permit  
3   number is 5562.

4           Q.       With regard to these three Middle Ridge  
5   units that we've just worked our way through here, is it your  
6   opinion that the drilling of one frac well in each of these  
7   units is a reasonable plan of development to develop the  
8   coalbed methane for all the claimants and owners?

9           A.       Yes, it is.

10          Q.       Is it your opinion that if you take the  
11   leases that CNX has obtained and other agreements with owners  
12   and claimants and combine that with a pooling order dealing  
13   with the respondent's interest that those two things, the  
14   leases and agreements, coupled with a pooling order would  
15   serve to protect the correlative rights and claims of all  
16   owners and claimants in these units?

17          A.       Yes, it would.

18          MARK SWARTZ:  That's all I have.

19          BENNY WAMPLER:  Questions from members of the  
20   Board?

21          (No audible response.)

22          BENNY WAMPLER:  Is there a motion?

23          DONALD RATLIFF AND JIM McINTYRE:  So moved.

24

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1           DONALD RATLIFF:   Second.

2           BENNY WAMPLER:   Move to approve and second.   Any  
3 further discussion?

4           (No audible response.)

5           BENNY WAMPLER:   All in favor, signify by saying  
6 yes.

7           (All members signify by saying yes.)

8           BENNY WAMPLER:   Opposed, say no.

9           (No audible response.)

10          BENNY WAMPLER:   You have approval.   The next item  
11 on the agenda is a petition from CNX Gas Company for pooling  
12 of a coalbed methane unit AY-103, docket number VGOB-04-0720-  
13 1308.   We'd ask the parties that wish to address the Board in  
14 this matter to come forward at this time.

15          MARK SWARTZ:   Mark Swartz and Les Arrington.

16          (Mr. Wampler confers with some individuals in the  
17 audience.)

18          (Off record.)

19          BENNY WAMPLER:   Let's take a ten minute break.

20          (Off record.)

21          BENNY WAMPLER:   The next item on the agenda is a  
22 petition from CNX Gas Company, LLC for pooling of a coalbed  
23 methane unit AY-103, docket number VGOB-04-0720-1308.   We'd  
24

1 ask the parties that wish to address the Board in this matter  
2 to come forward at this time.

3           MARK SWARTZ: Mark Swartz and Les Arrington. Also,  
4 I would like to ask that the Board consider combining the  
5 four remaining Nora units, which would be the one that you  
6 just called with the next docket item on your docket as  
7 seven.

8           BENNY WAMPLER: Right.

9           MARK SWARTZ: And then---.

10          BENNY WAMPLER: Ten and eleven.

11          MARK SWARTZ: ---on the next page it would be ten  
12 and eleven would be the last two Noras.

13          BENNY WAMPLER: We'll also call a petition from CNX  
14 Gas Company, LLC for pooling of coalbed methane unit AZ-104,  
15 docket number VGOB-04-0720-1309; and a petition from CNX Gas  
16 Company, LLC for repooling of coalbed methane unit AX-100,  
17 docket number VGOB-03-0715-1158-01; and a petition from CNX  
18 Gas Company, LLC for a repooling of coalbed methane unit AW-  
19 102, docket number VGOB-03-0819-1165-01. We'd ask the  
20 parties that wish to address the Board in these matters to  
21 come forward at this time.

22          MARK SWARTZ: It will also be Mark Swartz and Les  
23 Arrington.

24

--

1           BENNY WAMPLER: Six, seven, ten and eleven for the  
2 Board members' convenience. Okay, the record will show there  
3 are no others. You may proceed.

4           MARK SWARTZ: Mr. Chairman, I would like to  
5 incorporate the information from the prior hearings with  
6 regard to CNX as the applicant and as the potential  
7 designated operator, the corporate or partnership status and  
8 registration with the DMME and that sort of information,  
9 along with the lease term information.

10           BENNY WAMPLER: That will be incorporated.

11

12                           LESLIE K. ARRINGTON

13                           DIRECT EXAMINATION

14   QUESTIONS BY MR. SWARTZ:

15           Q.       Les, you need to state your name for us.

16           A.       Leslie K. Arrington.

17           Q.       Who do you work for?

18           A.       CNX Gas Company.

19           Q.       What do you do for them?

20           A.       Manager of environmental and permitting.

21           Q.       Were you the fellow that either prepared or  
22 caused to be prepared the notices of hearing and the  
23 applications and the related exhibits with regard to these  
24

--

1 four pooling applications?

2 A. Yes, I was.

3 Q. And did you, in fact, sign all of four of

4 them?

5 A. I did.

6 Q. Are they all Nora units?

7 A. Yes, they are.

8 Q. With regard to the acreage in the units,

9 let's start with AY-103, what's the acreage?

10 A. 58.78.

11 Q. AZ-104?

12 A. 56.97.

13 Q. AX-100?

14 A. 58.77.

15 Q. And then lastly, AW-102?

16 A. 58.76.

17 Q. And these are indeed Nora units?

18 A. Yes.

19 Q. And the proposed development proposal is

20 that there would be one well in each of these units?

21 A. That's correct.

22 Q. With regard to AY-103, the well is in the

23 window?

24



1           A.       Yes, it is.

2           Q.       With regard to AZ-104, it's outside the  
3 window, just barely?

4           A.       Correct.

5           Q.       With regard to AX-100, it is in the window?

6           A.       Yes.

7           Q.       And with regard to AW-102, it's in the  
8 window?

9           A.       Yes, it is.

10          Q.       Okay. Turning specifically...well, before  
11 we do that. What did you do to notify the respondents in  
12 these four pooling hearings that there would be a hearing  
13 today?

14          A.       AY-103 was mailed June the 18th, 2004;  
15 published in the Bluefield Daily Telegraph on June the 25th,  
16 2004. AZ-104, mailed June the 18th, 2004; published  
17 Bluefield Daily Telegraph on June the 26th, 2004. AX-100,  
18 mailed June the 18th, 2004; published in the Bluefield Daily  
19 Telegraph June 29, 2004. AW-102, mailed June 18, 2004;  
20 published Bluefield Daily Telegraph June the 28th, 2004.

21          Q.       And have you filed with Mr. Wilson proofs  
22 with regard to both mailing and service concerning these four  
23 units?

24

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1           A.       Yes, we have.

2           Q.       Turning to AY-103, what is the interest that  
3 you've acquired and what is it that you're seeking to pool?

4           A.       We have leased 100% of the coal owner's  
5 claim to the coalbed methane. We have leased 64.4082% of the  
6 oil and gas owner's claim to coalbed methane. Seeking to  
7 pool 35.5918% of the oil and gas owner's claim to coalbed  
8 methane.

9           Q.       And is a portion of what you're seeking to  
10 pool leased to Equitable?

11          A.       Yes, it is.

12          Q.       Okay. And is that disclosed by your  
13 application?

14          A.       Yes, it is.

15          Q.       And in the event the Board enters an order,  
16 it would be necessary to afford Equitable a participation  
17 right assuming you haven't already reached an agreement with  
18 them?

19          A.       We are working on that.

20          Q.       I understand. But I'm saying---.

21          A.       Yes, that's correct.

22          Q.       Have you provided a well cost estimate here?

23          A.       Yes. For AY-103, \$220,600.35, depth is  
24

1 2164, permit number is 5739, and I believe that drill date  
2 should have been December 3rd, 2003.

3 Q. Okay. With regard to escrow related issues,  
4 there are some folks with addresses unknown in Tract 3A,  
5 correct?

6 A. 3A and possibly 3B.

7 Q. Let me look at that.

8 BENNY WAMPLER: 6 of 6.

9 Q. I think it's just 3A.

10 A. Okay, just 3A.

11 Q. Okay. With regard to conflicts, there's an  
12 Exhibit E, correct?

13 A. Yes, it is.

14 Q. And the conflict tracts would be 1B, 3A, 3B?

15 A. Yes.

16 Q. And is there also a title issue in Tract 1B?

17 A. Yes, it is.

18 Q. And that would be a further reason for  
19 escrow?

20 A. Yes.

21 Q. Lastly, have you filed an Exhibit EE?

22 A. Yes, we have.

23 Q. There was some split agreements, if I'm not  
24

--

1 mistaken, affecting Tract 3A?

2 A. Yes.

3 Q. And are you requesting that the Board order  
4 allow you to pay those people directly in accordance with  
5 their split agreements as opposed to escrowing their funds?

6 A. Yes, we are.

7 Q. Turning to AZ-104, what is it that you've  
8 leased and what is it that you're seeking to pool?

9 A. We've leased 100% of the coal owner's claim  
10 and leased 96.1032% of the oil and gas owner's claim to  
11 coalbed methane. We're seeking to pool 3.8968% of the oil  
12 and gas owner's claim to coalbed methane.

13 Q. And is a portion of that outstanding claim  
14 that you're seeking to pool subject to an Equitable lease?

15 A. I believe so.

16 Q. And, again, we would...we would ask that the  
17 Board order avoid Equitable as noted in Exhibit B-3  
18 participation option here?

19 A. Yes.

20 Q. And there's no escrow requirement with  
21 regard to this unit, is that correct?

22 A. That's correct.

23 Q. However, there is a split agreement and you  
24

--

1 filed an Exhibit EE indicating that in Tract 3 at least some  
2 of the folks have resolved their---?

3 A. That's correct.

4 Q. ---conflicting claims, correct?

5 A. Yes.

6 Q. And are you asking that the Board allow you  
7 to pay those people identified with regard to Tract 3 in  
8 Exhibit EE directly as opposed to escrowing their funds?

9 A. Correct, we are.

10 Q. Okay. With regard to unit AX-100, what is  
11 it that you've acquired...what are the interests you've  
12 acquired and what is it you're seeking to pool?

13 A. Yes. We have one...we've leased 100% of the  
14 coal owner's claim to coalbed methane. We've leased 92.6697%  
15 of the oil and gas owner's claim to coalbed methane. We're  
16 seeking to pool 7.3303% of the oil and gas owner's claim to  
17 coalbed methane.

18 Q. Is that interest that you're seeking to pool  
19 subject in whole or in part to an Equitable lease?

20 A. In part.

21 Q. Okay. And are you again requesting,  
22 consistent with what you've disclosed in Exhibit B-3,  
23 Equitable be afforded a participation option with regard to  
24

--

1 the lease...let me see if I can find it here...it looks like  
2 it's the Martins again?

3 A. Yes, it is.

4 Q. Okay. We have address unknown issues  
5 requiring escrow here in Tracts 1B as in Boy and 1D as in  
6 David?

7 A. That's correct.

8 Q. You filed an Exhibit E, correct?

9 A. Yes, we have.

10 Q. And that exhibit discloses escrows required  
11 because of conflicts concerning Tracts 1B, 1C, 1D, 2B, 2C,  
12 correct?

13 A. Yes.

14 Q. And what tracts are subject to split  
15 agreements?

16 A. It appears to be 1A, 1B, 1C, 1D, 2A, 2B, 2C,  
17 2D, 2E and 2F.

18 Q. And are you requesting with regard to the  
19 Exhibit EE that the folks identified therein, that the  
20 operator be allowed to pay them directly as opposed to  
21 escrowing their funds?

22 A. Yes.

23 Q. Okay. With regard to this AX-100, have you  
24

--

1 provided a well cost estimate?

2 A. AX-100, yes, \$245,532.86, estimated depth is  
3 2680, permit number is 5719.

4 Q. Okay. And lastly with regard to AW-102,  
5 what...what interest have you acquired and what...what  
6 interest are you seeking to pool?

7 A. We've acquired 100% of the coal owner's  
8 claim; 99.4920% of the oil and gas owner's claim to coalbed  
9 methane; seeking to pool 0.5080% of the oil and gas owner's  
10 claim to coalbed methane.

11 Q. Okay. Have you provided a well cost  
12 estimate to the Board with regard to this unit?

13 A. Yes, \$236,983.11; depth is 2287; permit  
14 number is 5591.

15 Q. Okay. And there's an Exhibit E that you've  
16 tendered to the Board with regard to AW-102, correct?

17 A. Yes.

18 Q. And that indicates that there are conflicts  
19 in Tract 2A, 2B, 4?

20 A. Yes.

21 Q. And that should be it for the conflicts?

22 A. Yes.

23 Q. And you've also tendered an Exhibit EE, is  
24

--

1 that correct?

2 A. Yes.

3 Q. And that shows that folks in Tracts 2A, 4  
4 ...and 4, some of them have entered into royalty split  
5 agreements, and are you requesting that the Board allow you  
6 to pay those people identified in Exhibit EE directly in  
7 accordance with their split agreements as opposed to  
8 escrowing their funds?

9 A. Yes, we have. Yes, we are.

10 Q. And do we have some address unknown issues  
11 in some of the tracts in this unit?

12 A. I believe there is. Tract---.

13 Q. It looks like when you underline a tract,  
14 it's disclosing an address unknown issue.

15 A. Yes.

16 Q. But we'll look at this for sure. It looks  
17 like it may be---.

18 A. It should be 2A and 2B.

19 Q. Definitely 2A?

20 A. Uh-huh.

21 Q. And 4. 2A and 4 with the unknown address  
22 issues?

23 A. Yes.

24

--



1                   Q.       Do you want today to add any respondents to  
2 any of these four units?

3                   A.       No, we do not.

4                   Q.       Do you want to dismiss any respondents?

5                   A.       No.

6                   Q.       With regard to these four units, is it your  
7 opinion that the plan of development, which is to drill one  
8 frac well in each of these units is a reasonable plan to  
9 develop the coalbed methane on behalf of the owners and  
10 claimants?

11                  A.       Yes, it is.

12                  Q.       And is it your further opinion that if you  
13 take the leases you've acquired and you combine them with the  
14 pooling order, that those two events, or two things, will  
15 serve to protect the correlative rights of all owners and  
16 claimants?

17                  A.       Yes, it will.

18                  MARK SWARTZ: That's all I have.

19                  BENNY WAMPLER: Questions from members of the  
20 Board?

21                  JIM MCINTYRE: I have a question. On Tract AY-103,

22                  MARK SWARTZ: Okay.

23                  JIM MCINTYRE: In Exhibit E, 3A, did I understand  
24

1 you to say that that was a title problem with 3A?

2 MARK SWARTZ: I meant to say 1B.

3 JIM MCINTYRE: Okay, because I couldn't see how you

4 could do a split agreement on a title problem.

5 MARK SWARTZ: No, it's 1B.

6 JIM MCINTYRE: Okay.

7 MARK SWARTZ: Now I may have misspoke, but if you

8 look at the tract identifications, page 1B shows the or and

9 that's the one where we have the title issue.

10 BENNY WAMPLER: Thank you.

11 MARK SWARTZ: You're welcome.

12 BENNY WAMPLER: Any other questions?

13 (No audible response.)

14 BENNY WAMPLER: Is there a motion?

15 DONALD RATLIFF: So moved, Mr. Chairman.

16 JIM MCINTYRE: Second.

17 BENNY WAMPLER: Motion to approve and second. Any

18 further discussion?

19 (No audible response.)

20 BENNY WAMPLER: All in favor, signify by saying

21 yes.

22 (All members signify by saying yes.)

23 BENNY WAMPLER: Opposed, say no.

24

--

1 (No audible response.)

2 BENNY WAMPLER: You have approval. The next item  
3 on the agenda is a petition from Equitable Production Company  
4 for pooling of coalbed methane unit BC-502834, docket number  
5 VGOB-04-0720-1312. We'd ask the parties that to address the  
6 Board in this matter to come forward at this time.

7 BOB WILSON: Mr. Chairman.

8 BENNY WAMPLER: Mr. Wilson.

9 BOB WILSON: While they're getting settled in  
10 there, I'd point out for the record that staff received a  
11 letter from Theresa D. Scholtz objecting to the pooling  
12 number...this docket number. I have given each Board member  
13 a copy of that letter and I'll even share one with the  
14 operator at this time.

15 BENNY WAMPLER: Go ahead and state your name for  
16 the record, please.

17 TONY WILHOIT: Mr. Chairman, Tony Wilhoit and Don  
18 Hall on behalf of Equitable Production Company, the applicant  
19 in this matter. For the record, we will acknowledge that we  
20 did receive today prior to hearing a copy of a letter from  
21 Theresa Scholtz directed to Mr. Wilson, and a copy of his  
22 response to her dated July the 16th, 2004.

23 BENNY WAMPLER: Have Mr. Hall sworn in, please.

24

--

1 (Mr. Hall is duly sworn.)

2

3

4

5

6 DON HALL

7 having been duly sworn, was examined and testified as

8 follows:

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. WILHOIT:

11 Q. Would you state your full name for the  
12 record, please?

13 A. My name is Don Hall.

14 Q. And how are you employed, Mr. Hall?

15 A. I'm employed by Equitable Production Company  
16 as district landman.

17 Q. All right, sir. Are you familiar with the  
18 applications Equitable has filed before the Board here today?

19 A. Yes.

20 Q. And first of all, is Equitable authorized to  
21 do business in the Commonwealth of Virginia?

22 A. Yes.

23 Q. All right, sir. And does Equitable have  
24

--

1 drilling rights under the unit as depicted at Exhibit A to  
2 the application?

3 A. We do.

4 Q. And what are the drilling rights that you  
5 own there?

6 A. We have 94.11% of the gas estate leased, and  
7 the same amount of the coal estate.

8 Q. Are the unleased parties in the unit?

9 A. Yes.

10 Q. And what efforts have you made to contact  
11 those respondents?

12 A. We have...we're unable to ever get a phone  
13 number to talk directly with Ms. Scholz, but we did mail a  
14 lease by certified mail return receipt requested and she  
15 received that and we got no response from her.

16 Q. All right, sir. Is her address and name set  
17 forth on Exhibit B-3?

18 A. It is.

19 Q. And her interest in the gas estate that's  
20 unleased, what would that be?

21 A. 5.89% in both the gas and the coal estate.

22 Q. All right. And the address set out in  
23 Exhibit B is the last known address for this respondent, is  
24

1 that correct?

2 A. Yes.

3 Q. Are you asking the Board to force pool her  
4 interest in this unit?

5 A. We are.

6 Q. Are you familiar with the fair market value  
7 of the drilling rights in this unit?

8 A. Yes.

9 Q. What would they be?

10 A. A five dollar bonus, a five year term with a  
11 one-eighth royalty.

12 Q. Is this a fair...fair representation of the  
13 fair market value and reasonable compensation for the  
14 drilling rights?

15 A. Yes.

16 Q. Okay. Then are you asking the Board then to  
17 issue its order wherein the named respondent is given the  
18 election to...under the statute to either participate, be  
19 leased or be a carried operator?

20 A. Yes.

21 Q. And are you asking the Board to also include  
22 in that order the standard penalties and so forth for the  
23 carried operator of 300% and 200%?

24

--

1                   A.       Yes.

2                   Q.       And where do you want that respondent to  
3 respond?

4                   A.       Equitable Production Company, 1710  
5 Pennsylvania Avenue, Charleston, West Virginia, Attention:  
6 Melanie Freeman.

7                   Q.       And that's where you want all communications  
8 to be sent?

9                   A.       Yes.

10                  Q.       And are you also asking the Board that in  
11 their order to include the statutory provisions regarding  
12 deadlines for a response and penalties in the event of  
13 failure to respond?

14                  A.       Yes.

15                  Q.       Who would you ask to be named operator under  
16 the order?

17                  A.       Equitable Production Company.

18                  Q.       And what is the depth of this proposed  
19 initial well under your plan of development?

20                  A.       2572 feet.

21                  Q.       Is this sufficient to penetrate the subject  
22 formation?

23                  A.       Yes.

24

1 Q. And what are the estimated reserves in this  
2 unit?

3 A. 325 million cubic feet.

4 Q. Have you had an opportunity to review the  
5 AFE that has been submitted in connection with the  
6 application?

7 A. Yes.

8 Q. Does the AFE represent a reasonable estimate  
9 of the well costs for the proposed well?

10 A. It does.

11 Q. What would the dryhole...dryhole costs be?

12 A. \$116,378.

13 Q. And the costs for a completed well?

14 A. \$286,352.

15 Q. Is this a multiple completion well?

16 A. Yes.

17 Q. And does your AFE have a charge for  
18 supervision?

19 A. It does.

20 Q. In your opinion, will the granting of this  
21 application be in the best interest of conservation,  
22 prevention of waste, and the protection of correlative  
23 rights?

24



1           A.       Yes.

2           TONY WILHOIT: That's all we have, Mr. Chairman and  
3 Board members.

4           BENNY WAMPLER: Questions from members of the  
5 Board?

6           (No audible response.)

7           BENNY WAMPLER: Mr. Hall, is this well located...  
8 going to be located on Ms. Scholz's property?

9           DON HALL: No.

10          BENNY WAMPLER: Any pipeline or any crossing  
11 whatsoever on her property?

12          DON HALL: Nothing...no surface disturbance on her  
13 property.

14          TONY WILHOIT: Let me also submit, Mr. Chairman,  
15 that we tendered to Mr. Wilson our affidavit of mailing with  
16 evidence of publication.

17          BENNY WAMPLER: Other questions from members of the  
18 Board?

19          (No audible response.)

20          BENNY WAMPLER: Do you have anything further?

21          TONY WILHOIT: That's all.

22          BENNY WAMPLER: Is there a motion?

23          JIM MCINTYRE: So move.

24

1           BENNY WAMPLER: To approve. Is there a second?  
2           MASON BRENT: Second.  
3           BENNY WAMPLER: Motion and second. Any further  
4 discussion?  
5           (No audible response.)  
6           BENNY WAMPLER: All in favor, signify by saying  
7 yes.  
8           (All members signify by saying yes, but Donald  
9 Ratliff.)  
10          BENNY WAMPLER: Opposed, say no.  
11          DONALD RATLIFF: I abstain, Mr. Chairman.  
12          BENNY WAMPLER: We have one abstention, Mr.  
13 Ratliff. You have approval.  
14          TONY WILHOIT: Thank you.  
15          BENNY WAMPLER: The next item on the agenda is a  
16 petition from Equitable Production Company for pooling of a  
17 coalbed methane unit VC-535648, docket number VGOB-04-0720-  
18 1313. We'd ask the parties that wish to address the Board in  
19 this matter to come forward at this time.  
20          TONY WILHOIT: Tony Wilhoit and Don Hall on behalf  
21 of the applicant, Equitable Production Company.  
22          BENNY WAMPLER: The record will show there no  
23 others. You may proceed.  
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DON HALL

DIRECT EXAMINATION

QUESTIONS BY MR. WILHOIT:

Q. Mr. Hall, you've been previously sworn, is that correct?

A. That's correct.

Q. And you're a landman in charge of this area for Equitable Petroleum...Equitable Production Company?

A. Yes.

Q. And you're familiar with this application that has been filed and pending before the Board at this time?

A. Yes.

Q. And does Equitable own drilling rights in this particular area?

A. We do.

Q. And what is the interest of Equitable in the gas and coal estate?

A. We have 97.99% leased in both the gas and the coal estate.

Q. And are you familiar with who owns the other unleased interest?

1           A.       Yes.

2           Q.       And are those parties set out in Exhibit B3  
3 to the application?

4           A.       They are.

5           Q.       What would the interest be that they own?

6           A.       They own 2.01%.

7           Q.       And have you tried to contact these people  
8 regarding their interest to reach a voluntary agreement with  
9 them?

10          A.       Yes.

11          Q.       And what was the result of your contact?

12          A.       We were unable to reach an agreement.

13          TONY WILHOIT:   Okay.  Again, Mr. Chairman, we'd  
14 submit that the affidavit of mailing with evidence of  
15 publication has been tendered to Mr. Wilson prior to the  
16 hearing.  I would ask the Board to incorporate the testimony  
17 earlier of Mr. Hall regarding the fair market value of a  
18 lease in this area and the elections and penalties and so  
19 forth that are contained in the standard order from the Board  
20 regarding participation, leasing and being a carried  
21 interest.

22          BENNY WAMPLER:   That will be incorporated.

23          Q.       Okay.  Are you asking that Equitable  
24

1 Production Company be named operator under the order?

2 A. Yes.

3 Q. And are you asking that all responds by the

4 respondents be submitted to Equitable in Charleston, to

5 Melanie Freeman?

6 A. Yes.

7 Q. All right, sir. What is the proposed depth

8 of this well?

9 A. 2228 feet.

10 Q. Is that sufficient to penetrate and test the

11 sources of supply in the subject formation?

12 A. Yes.

13 Q. What's the estimated reserves?

14 A. 300 million cubic feet.

15 Q. Have you prepared or are you familiar with

16 the AFE as submitted as an exhibit to the application?

17 A. Yes.

18 Q. What are the dryhole costs?

19 A. Dryhole cost is a \$103,536.

20 Q. And completed well cost would be how much?

21 A. \$236,756.

22 Q. Is this a multiple completion?

23 A. Yes.

24

1 Q. And does it have a charge for supervision?  
2 A. It does.  
3 Q. Is this a reasonable estimate of the well  
4 cost for the well under development?  
5 A. Yes.  
6 Q. And again in your opinion, is granting of  
7 this application in the best of interest of conservation,  
8 production...prevention of waste and the protection of  
9 correlative rights?  
10 A. Yes.  
11 TONY WILHOIT: That's all we have to present, Mr.  
12 Chairman.  
13 BENNY WAMPLER: Questions from members of the  
14 Board?  
15 (No audible response.)  
16 BENNY WAMPLER: Is there a motion?  
17 JIM MCINTYRE: Motion to approve.  
18 MASON BRENT: Second.  
19 BENNY WAMPLER: Motion and second. Any further  
20 discussion?  
21 (No audible response.)  
22 BENNY WAMPLER: All in favor, signify by saying  
23 yes.  
24

1                   (All members signify by saying yes, but Donald  
2 Ratliff.)

3                   BENNY WAMPLER: Opposed, say no.

4                   DONALD RATLIFF: I abstain, Mr. Chairman.

5                   BENNY WAMPLER: One abstention, Mr. Ratliff. You  
6 have approval. Thank you. The next item on the agenda is a  
7 petition from Equitable Production Company for pooling of  
8 coalbed methane unit VC-505191, docket number VGOB-04-0720-  
9 1314. We'd ask the parties that wish to address the Board in  
10 this matter to come forward at this time.

11                  DONALD RATLIFF: Mr. Chairman, I don't have a plat  
12 on that.

13                  BENNY WAMPLER: On this one?

14                  DONALD RATLIFF: On this one.

15                  BENNY WAMPLER: I don't think any of us do. I  
16 didn't have one either.

17                  TONY WILHOIT: Actually, it would be the same as  
18 the previous one, wouldn't it.

19                  DON HALL: No, it's a different plat. It's the  
20 same people.

21                  TONY WILHOIT: Same people.

22                  BOB WILSON: I have a plat. The original file copy  
23 has a plat with---.

24

1           BENNY WAMPLER: It wasn't in our copies. You  
2 didn't have one either, did you? You might just pass that  
3 around and we can be looking at it.

4           (Mr. Hall and Mr. Wilhoit confer.)

5           DONALD RATLIFF: I need to see who's on the  
6 surface.

7           BENNY WAMPLER: I understand. The record will show  
8 there are no others. You may proceed.

9           TONY WILHOIT: Thank you, Mr. Chairman. Again,  
10 we'd submit that the affidavit of mailing of the application  
11 with evidence of publication has been submitted to Mr. Wilson  
12 prior to this hearing.

13

14                           DON HALL

15                           DIRECT EXAMINATION

16 QUESTIONS BY MR. WILHOIT:

17           Q.       Mr. Hall, you've been previously sworn.  
18 Would you testify, again, as to your employment and capacity  
19 there?

20           A.       District landman with Equitable Production  
21 Company.

22           Q.       And in your capacity as a district landman,  
23 are you familiar with the application currently pending

24

--



1 before the Board?

2 A. Yes.

3 Q. Does Equitable Production Company own rights  
4 within the area depicted on Exhibit A to the application?

5 A. Yes. We have 96.3% of the coal and oil and  
6 gas estate leased.

7 Q. And of that remaining 3.7%, are those  
8 unleased parties set out in Exhibit B3 to the application?

9 A. They are.

10 Q. And are they in fact the same parties that  
11 were respondents in the application prior to this one before  
12 the Board?

13 A. Yes, they were.

14 Q. And did you, again, notify these people of  
15 this hearing?

16 A. Yes.

17 Q. And have you contacted them regarding  
18 entering into a voluntary agreement regarding their interest?

19 A. We have.

20 Q. And what were your efforts?

21 A. We were you unable to reach an agreement.

22 Q. Is Exhibit...does Exhibit B contain the last  
23 known address for these respondents?

24

1           A.       It does.

2           Q.       Are you asking the Board then to force pool  
3 these unleased interest into a unit?

4           A.       Yes.

5           Q.       All right, sir.

6           BENNY WAMPLER: Again, Mr. Chairman, I'd ask that  
7 we incorporate the testimony previously given by Mr. Hall  
8 regarding the fair market value of the oil and gas lease in  
9 this area together with the request that the Board enter an  
10 order containing the statutory provisions regarding  
11 participation, leasing or being a carried interest with the  
12 time frames for response and penalties for failure to respond  
13 to be included in that order.

14          BENNY WAMPLER: That will be incorporated.

15          Q.       Do you recommend that any elections given to  
16 these respondents be sent to Equitable Production in  
17 Charleston, Attention: Melanie Freeman?

18          A.       Yes.

19          Q.       And are you asking that Equitable Production  
20 Company be named operator under this force pooling order?

21          A.       Yes.

22          Q.       What is the depth of this well?

23          A.       2204 feet.

24

1 Q. Again, is that sufficient to penetrate the  
2 subject formation?  
3 A. Yes.  
4 Q. What are the estimated reserves for the  
5 unit?  
6 A. 400 million cubic feet.  
7 Q. And have you reviewed and did you prepare  
8 the AFE that has been submitted to the Board?  
9 A. I reviewed it. I didn't prepare it.  
10 Q. Was it prepared by someone knowledgeable  
11 within your department who knows the well costs?  
12 A. Yes.  
13 Q. And does it represent a fair and reasonable  
14 estimate of the well costs for the proposed well?  
15 A. It does.  
16 Q. What would the dryhole costs be?  
17 A. \$107,128.  
18 Q. And if the well is completed, what would the  
19 costs be?  
20 A. \$241,123.  
21 Q. Is this a multiple completion?  
22 A. Yes.  
23 Q. And does your AFE include a charge for  
24

1 supervision?

2           A.       It does.

3           Q.       And again, in your opinion, would the

4 granting of this application be in the best interest of

5 conservation, prevention of waste and protection of

6 correlative rights?

7           A.       Yes.

8           TONY WILHOIT: That's all we have, Mr. Chairman.

9           BENNY WAMPLER: Questions from members of the

10 Board?

11           (No audible response.)

12           BENNY WAMPLER: Is there a motion?

13           JIM McINTYRE: Motion to approve.

14           BENNY WAMPLER: Motion to approve. Is there a

15 second?

16           MASON BRENT: Second.

17           BENNY WAMPLER: Motion and second. Any further

18 discussion?

19           (No audible response.)

20           BENNY WAMPLER: All in favor, signify by saying

21 yes.

22           (All members signify by saying yes, but Donald

23 Ratliff.)

24

1           BENNY WAMPLER: Opposed, say no.  
2           (No audible response.)  
3           BENNY WAMPLER: You have approval. Thank you.  
4           DONALD RATLIFF: I abstain, Mr. Chairman.  
5           BENNY WAMPLER: You have one abstention, Mr.  
6 Ratliff.  
7           TONY WILHOIT: Thank you, Mr. Chairman and members  
8 of the Board. It's good to see you again.  
9           BENNY WAMPLER: Thank you. Good to see you.  
10          TONY WILHOIT: Mr. Kiser will be back. I'll make  
11 sure he puts all the plats attached this time.  
12          BENNY WAMPLER: Okay, good deal.  
13          TONY WILHOIT: Thank you.  
14          BENNY WAMPLER: Thank you. The last item I have is  
15 the minutes and the results of the hearing for June the 15th.  
16 They have been distributed to Board members. You've had an  
17 opportunity to look at those. Is there any question or  
18 comment? Otherwise, I'd entertain a motion.  
19          MASON BRENT: Motion to approve, Mr. Chairman.  
20          DONALD RATLIFF: Second.  
21          BENNY WAMPLER: Second. Any further discussion?  
22          (No audible response.)  
23          BENNY WAMPLER: All in favor, signify by saying  
24

1 yes.

2 (All members signify by saying yes.)

3 BENNY WAMPLER: It is approved.

4 DONALD RATLIFF: What happened to item one. I

5 thought we was coming back to this one.

6 BOB WILSON: The Board took that off the docket

7 because we hadn't received proper application material.

8 BENNY WAMPLER: Right.

9 BOB WILSON: It was on the record last month that

10 that item was going to be removed from the docket.

11 BENNY WAMPLER: They just didn't come back with it.

12 Do you have anything, Mr. Wilson?

13 BOB WILSON: Yes, sir, a couple of things. We are,

14 as we have...I think must of us have discussed before, under

15 a mandate to review regulation on a periodic basis to

16 eliminate unnecessary regulation and to make corrections or

17 additions as needed. We are about to enter into our gas and

18 oil regulations in the department and at the same time, we're

19 going to do the Gas and Oil Board regulation. We have not,

20 at this point in time, decided exactly how we're going to go

21 into the Board regulation. We have two ways that we can

22 go...actually three ways, I guess. We could decide that it

23 doesn't need any attention and not open it up at all. We can

24

1 decide to make minor changes or focused changes and basically  
2 only open up a small portion of it or we can open up the  
3 entire regulation and it would be open for public comment and  
4 public review. We will have a work group to work on it  
5 composed of interested parties, the operators, the citizens,  
6 Board members, however we decide to set that up.

7           At this point in time, we have just commenced the  
8 process...actually, we pretty much just committed to the  
9 process. We've had one meeting in my...in the department  
10 relative to the gas and oil regulation. I wanted to bring  
11 the Board in on this and say that if you would please think  
12 about the regulations. Look at your copy of the regulations.  
13 If you can't lay your hands on it, let me know and I'll get  
14 you one. Let me know...let us know if there are changes that  
15 you see that need to be made, specific sections that need to  
16 be addressed; any concerns you have with it at all.  
17 Hopefully, by the time we meet next we'll have a little more  
18 idea of what the department's recommendation is going to be  
19 on this. We will...we'll be getting into the process then.  
20 I mainly wanted to just point that out. I'm sorry, did you  
21 have something you wanted to add to that?

22           BENNY WAMPLER: Well, just as a general...general  
23 rule, when we do these reviews, you know, I personally think  
24

--

1 it's a good idea just to open them up and see, you know...a  
2 lot of times we get comments that go beyond what the law says  
3 and all that. But still I think it has been a while since  
4 we've reviewed the regulation and I think it probably will be  
5 our recommendation to...to not restrict it in anyway, just to  
6 open the entire reg up and let the Board receive public  
7 comments. What we'll do when we do that is we will receive  
8 those written comments and then Bob will present them back to  
9 the Board for consideration along with the department  
10 recommendation on how to address it. We always address every  
11 comment we get and we would have a draft of that for the  
12 Board's approval is the way that would work.

13 BOB WILSON: And we...as I said, we're doing this  
14 in conjunction with the gas and oil regulation, enforcement  
15 and permitting regulation, which will facilitate the process  
16 to some degree.

17 MASON BRENT: So you welcome input from Board  
18 members on the Board regulations?

19 BOB WILSON: Oh, yes, definitely.

20 DONALD RATLIFF: Would the Supreme Court decision  
21 that came down affect areas that we need to look, at or is it  
22 just...just isolated to that one case?

23 BENNY WAMPLER: It's really just the Judge  
24



1 interpreting those deeds of that...you know, that he looked  
2 at. It didn't go beyond that at this point. Bob, we've got  
3 a couple of new Board members appointed, but not processed to  
4 serve. Do you mention that?

5           BOB WILSON: That's correct. Kenneth Addison who  
6 has Addison Surveyors here in Abingdon has been appointed to  
7 the Board to replace Kenneth Mitchell who was not  
8 reappointed. His term expired at the end of June. Mr.  
9 Addison's paperwork didn't clear in time for him to be with  
10 us today. So, we'll have him sworn and give him a bit of  
11 orientation. He'll be with us, hopefully, next time.

12           BENNY WAMPLER: It's Larry Kenneth Addison, right?

13           BOB WILSON: I'm sorry?

14           BENNY WAMPLER: Larry Kenneth Addison.

15           BOB WILSON: Yes, right. As I said, he is here in  
16 Abingdon. Hopefully, it will be somebody we can count on to  
17 be here on a regular basis.

18           MASON BRENT: I think I mentioned this before, but  
19 I would hope with these new members that there would be a  
20 fairly thorough orientation, you know, as to what's involved  
21 and what...you know, what our jurisdiction is and so forth  
22 and so on.

23           BENNY WAMPLER: We've been trying to do that. Bob

24

--

1 has been meeting with people that come on board in going  
2 through---.

3           BOB WILSON: That's actually an excellent segway.  
4 Thank you very much. The second thing that I wanted to  
5 mention was that in response to the little survey we did a  
6 ways back and the fact that we do have some new members on  
7 the Board, I would like, again, for you guys to consider the  
8 possibility of picking a Monday this fall sometime before the  
9 hearing the next day and consider the possibility of taking a  
10 day and actually do a little bit of field work visits; and  
11 also, maybe taking an afternoon of sitting down and going  
12 through some Board aspects, some of these orders, some of the  
13 details of the orders we've got, the field rules and this  
14 sort of thing to refresh those of you who have been here for  
15 a while and bring up to date the newer members. I do not  
16 have a proposed schedule. I was thinking the fall of the  
17 year is usually better for that. You can count on the  
18 weather a little bit better insofar as doing the field work.  
19 Just to plant the thought in your head and then maybe next  
20 month or so we can actually schedule it if there's sufficient  
21 interest. There seemed to be, in the survey that you folks  
22 were kind enough to return, an interest and seeing the need  
23 for some of this. Yeah, what we tried to do with the new

24

--

1 members right away is sit down and take them a packet of  
2 information, including the regulations, the law and the  
3 pertinent orders and explain the rudiments of what we do here  
4 and that sort of thing. Yeah, we do need a bit more  
5 intense---.

6           DONALD RATLIFF: But when you do that, you don't  
7 prepare us for the emotional aspects of when these folks get  
8 up and tell the sad stories. We want...we feel like that  
9 there's an obligation to help them. But by the guidelines of  
10 the Board, we really don't. Sometimes especially we get  
11 trapped into some deep holes. It's worth spending the time  
12 to avoid that because we've...we've had a couple of tough  
13 ones here the last couple of months that...you know, when you  
14 have twenty-five people staring at you---.

15           BOB WILSON: Sure.

16           DONALD RATLIFF: ---it makes tough calls and it's  
17 not easy to do what's comfortable all the time.

18           BENNY WAMPLER: Right. That's a good point.

19           BOB WILSON: That is a good point. It's something  
20 that I certainly will incorporate into my orientation  
21 sessions. It's something that we experience on a fairly  
22 regular basis on a regulatory aspect as well when you have to  
23 tell people genuinely I would like to help you, but I don't

24

--

1 have the power to do so.

2 MASON BRENT: Yeah, there has got to be a balance  
3 as to, you know, letting people, you know, get it out and  
4 hearing them.

5 BENNY WAMPLER: Yeah.

6 MASON BRENT: But then I think where my concern  
7 comes from, I'm speaking only in generalities, is when  
8 decisions are...individual decisions are made that are based  
9 totally on logic or whatever that's, you know, not relevant  
10 to, you know, our jurisdiction. You know, that's when I  
11 think we're on the edge of trouble.

12 BENNY WAMPLER: Right. Yeah, we've had that in the  
13 past, some people make recommendations to appease the public,  
14 so to speak, but not consistent with law and reg and that  
15 gets right to the heart of what Donnie was raising, too.

16 MASON BRENT: Yeah.

17 BENNY WAMPLER: It's not easy to...it's not easy to  
18 do what you need to do in face of controversy.

19 DONALD RATLIFF: But your demeanor always comes  
20 through there, Benny. Benny can...Benny can make them leave  
21 and feel good.

22 BENNY WAMPLER: I don't know about that.

23 BOB WILSON: It's a gift.

24

1           DONALD RATLIFF: It is a gift. I don't have it.

2           DON HALL: Who's the second one? Did you say there

3 was two?

4           BENNY WAMPLER: There is two. Can you remember the

5 other...is it...the other gentleman that---?

6           BOB WILSON: Oh, no. That's right, you've been

7 gone. No. The other gentleman was not able to serve.

8           BENNY WAMPLER: Right. But then there's---.

9           BOB WILSON: No. I don't---.

10          BENNY WAMPLER: Okay.

11          BOB WILSON: I only know about the one.

12          BENNY WAMPLER: Okay, that's right.

13          BOB WILSON: Yeah, the other gentleman was unable

14 to serve. He was going to...I think this came down last week

15 while you were in---.

16          BENNY WAMPLER: Okay.

17          BOB WILSON: ---other confines.

18          BENNY WAMPLER: Other parts of the country.

19          BOB WILSON: But, yeah, there was a gentleman

20 appointed who was at Virginia Tech, but he's retiring and is

21 moving to Florida and declined because he didn't want to come

22 back and forth to make his obligations.

23          BENNY WAMPLER: That's right.

24

1           BOB WILSON: So, then---.

2           BENNY WAMPLER: Jean did tell me on the telephone  
3 about that.

4           BOB WILSON: ---Mr. Addison---.

5           DON HALL: I read that somewhere...I read in the  
6 paper or something about his appointment. Was he at Virginia  
7 Tech?

8           BOB WILSON: Yeah.

9           DON HALL: And he's not going to serve? He was a  
10 geologist, I believe.

11          BENNY WAMPLER: Yeah. Geophysicist.

12          DON HALL: Geophysicist.

13          BOB WILSON: But he apparently is retiring and  
14 moving out of the state.

15          DON HALL: Who's slot will he be taking?

16          BOB WILSON: Kenneth Mitchell.

17          BENNY WAMPLER: No, that was...that was---.

18          BOB WILSON: Well, his...his slot was originally  
19 ...the original appointment was Mr. Kulhut...Dr. Kulhut, I  
20 guess, at Virginia Tech. He declined and then they appointed  
21 Mr. Addison to take the place of Kenneth Mitchell.

22          DON HALL: But there is one other position open?

23          BOB WILSON: No.

24

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1           BENNY WAMPLER: That was it.

2           DON HALL: Okay. I thought there was---.

3           BENNY WAMPLER: I was reappointed.

4           DON HALL: Pardon?

5           BENNY WAMPLER: Mine was expiring, but I was

6 reappointed.

7           DON HALL: Dennis, is he still---.

8           BENNY WAMPLER: Dennis is still on the Board,

9 maybe. After today, I don't know. Did he...did he tell you

10 why he wasn't here?

11          BOB WILSON: Yeah. I talked to him yesterday.

12 He...he was in a position that if absolutely necessary, he

13 would have come he said, but he needed to be somewhere else.

14          BENNY WAMPLER: That's not necessarily good.

15          MASON BRENT: We're on the record.

16          BENNY WAMPLER: Absolutely.

17          BOB WILSON: That's all I have.

18          BENNY WAMPLER: Okay. Thank you very much.

19          BOB WILSON: Were you going to bring those items

20 back onto the agenda or did you want me to check on bringing

21 those items back on the agenda in August or---?

22          BENNY WAMPLER: Yes, we want to go ahead and

23 reschedule the---.

24

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1                   BOB WILSON:   Okay.

2                   BENNY WAMPLER:   I could just go ahead on the record  
3 and, I can't go into kind of discussion except I think  
4 we've...we've made the Board aware that we do have a case  
5 styled Donald Ratliff, et al versus Bob Wilson, et al, and  
6 Sharon Pigeon and myself are named parties to this Court case  
7 regarding the disbursement of funds to the parties  
8 represented by Mr. Klubiak. We're going to go ahead and set  
9 those for rehearing on the Board's own motion is what I would  
10 recommend since there's a dispute here and it's really the  
11 Board's jurisdiction and not the Court's jurisdiction, in our  
12 opinion, regarding these disbursement of funds. I really am  
13 not comfortable saying more than that except to say if  
14 there's no objection, we'll reset those for rehearing next  
15 month. The Court date is August the 5th. So, you know, we  
16 can tell the Judge it's set for rehearing or he can decide or  
17 whatever...whichever way he wants to go. Does that make  
18 sense to you folks?

19                   (No audible response.)

20                   BENNY WAMPLER:   We had representation here that  
21 we'd get certain information, which in our attorney's opinion  
22 has not met that test of representation. I would think it  
23 would be proper for the Board to rehear. Does that make

24

--



1 sense to you?

2 MASON BRENT: Uh-huh.

3 DONALD RATLIFF: It does to me.

4 BENNY WAMPLER: Okay. Then we'll set those for  
5 rehearing.

6 BOB WILSON: Okay.

7 DONALD RATLIFF: That's not Donald and Louise  
8 Ratliff either just for the record. It's a different Donald.  
9 Thank you very much.

10

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14 STATE OF VIRGINIA,

15 COUNTY OF BUCHANAN, to-wit:

16 I, Sonya Michelle Brown, Court Reporter and Notary  
17 Public for the State of Virginia, do hereby certify that the  
18 foregoing hearing was recorded by me on a tape recording  
19 machine and later transcribed under my supervision.

20 Given under my hand and seal on this the 9th day of  
21 August, 2004.

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NOTARY PUBLIC

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2 My commission expires: August 31, 2005.  
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